

JOSEPH A. KOHEN, BREAKWATER  
TRADING LLC, and RICHARD HERSHEY,

Plaintiffs,

V.

PACIFIC INVESTMENT MANAGEMENT  
COMPANY LLC, PIMCO FUNDS, and  
JOHN DOES 1-100,

Defendants.

No. 05 C 4681

Hon. Ronald A. Guzman

## **STATEMENT OF PIMCO FUNDS FOR AUGUST 5, 2009 STATUS CONFERENCE**

As a courtesy and in anticipation of the status conference scheduled before this Court on August 5, 2009, Defendant PIMCO Funds (i) joins in the status conference statement filed by defendant PIMCO, and (ii) submits the following additional statement on issues specific to PIMCO Funds:

## 1. *Daubert* Motions

PIMCO Funds, which previously joined in the *Daubert* motions filed by PIMCO, anticipates that it will do so again in connection with PIMCO's renewed motions. In addition, PIMCO Funds intends to file its own *Daubert* motion directed at the only expert testimony in the case from plaintiffs relating to PIMCO Funds – limited opinions offered from one of Plaintiffs' experts (Rickards). PIMCO Funds will file this *Daubert* motion by August 12, 2009.

## 2. Summary Judgment Motions

Since PIMCO Funds' original summary judgment motion was filed back in October 2007, federal law governing the issues raised by its motion has evolved markedly. Specifically, there are several recent federal court decisions that relate directly to the legal issues raised in PIMCO Funds' motion, including respondeat superior liability principles pertinent to a Commodity Exchange Act market manipulation claim. Accordingly, PIMCO Funds intends to file a revised summary judgment motion. PIMCO Funds will file its revised motion by August 19, 2009. Given, as noted in PIMCO's status conference statement, that the issuance of class notice and the expiration of any opt-out period must precede summary judgment rulings in this case, PIMCO Funds believes that the briefing on its revised summary judgment motion will be completed well in advance of the date when its (and PIMCO's) motion could otherwise be heard.

Dated: August 3, 2009

Respectfully submitted,

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**Attorneys for Defendant PIMCO  
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**CERTIFICATE OF SERVICE**

I, Blake T. Hannafan, an attorney, hereby certify that on August 3, 2009, I filed on the ECF System the foregoing **State of PIMCO Funds for August 5, 2009 Status Conference** and thereby served such filing via the Court's ECF Notification system.

/s/ Blake T. Hannafan

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